IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(SPECIAL ORIGINAL JURISDICTION)

MONDAY, THE TWENTY EIGHTH DAY OF MARCH TWO THOUSAND AND FIVE

PRESENT

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No.6432 OF 2004

BETWEEN:

D.Raghava Reddy S/o Late D.Venkata Reddy, aged 40 years, Sub Inspector of Police Railway Police Station, Kurnool (now under suspension).

…Petitioner

And

1. The Government of Andhra Pradesh, Home Department, Secretariat, Hyderabad rep.by its Secretary.
2. The Director General and Inspector General of Police, Government of Andhra Pradesh, Hyderabad.
3. The Additional Director General of Police, Railways, Hyderabad.
4. The Superintendent of Police, Railways, Guntakal, Anantapur District.
5. Sri K.Venugopala Rao, The Superintendent of Police, Railways, Guntakal, Anantapur District.

…Respondents

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ of mandamus or any other appropriate writ or direction directing the 1st and 2nd respondents to entrust the investigation in Cr.No.26/2003,2/2004 and 14/2004 to CBCID/CID., instead of 5th respondent.

For the Petitioner: Mr.O.Manohar Reddy, Advocate.

For the Respondents 1 to 4: G.P. for Home.

The Court made the following :

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ORDER:

The learned counsel appearing for the petitioner submits that on the report made by the 5th respondent, the Sub-Inspector of Police Railways, Kurnool Railway Police Station registered the following cases: (1) Cr.No.26/2003 for the offence punishable under Sections 120-B, 468, 420 read with Section 511 of the Indian Penal Code; (2) Cr.No.2/2004 for the offence punishable under Sections 218, 468, 420 read with Sections 511 and 34 of the Indian Penal Code and (3) Cr.No.14/2004 for the offence punishable under Section 392 of the Indian Penal Code against the petitioner who was a Sub Inspector of Police, Railway Police Station, Kurnool (now under suspension).

It is stated that the respondents 4 and 5 (who is the same authority) made reports against the petitioner in the above cases. If the 5th

respondent supervises the investigation of the Station House Officer, Kurnool Railway Police Station, a subordinate officer to the 5th respondent, he cannot conduct a fair and proper investigation. Therefore, it is just and proper to entrust the investigation of the said cases to the C.I.D., instead of 5th respondent.

The learned counsel appearing for the Home submits that the conduct of the petitioner is not good and even before his repatriation to the Railway Police, two cases were registered against him and one case was ended in acquittal and other case was dropped against him. Fifth respondent made enquiries based on the complaints filed against the petitioner and therefore, it cannot be said that the 5th respondent is biased against the petitioner. It is further stated that there is no truth in any of the allegations made against the 5th respondent in connection with Cr.No.52/2002 registered at Kurnool Railway Police Station based on the complaint filed by one P.Padma wife of Late P.B.Sivashankar, who died while travelling in the train along with cash and valuable gold ornaments, which were not traced. On the said complaint of Smt.Padma with regard to missing of the gold ornaments etc., the CB CID., A.P., Hyderabad registered a case in Cr.No.10/2003 under Sections 406, 420, 477(a) of the Indian Penal Code against one T.Raghunathachari, Inspector, Railway Police, Guntakal Circle, which is pending on the file of the Deputy Superintendent of Police, C.I.D., Kurnool till date. The petitioner made allegations against the 5th respondent stating that he has made certain statements against the 5th respondent before the C.I.D., and therefore, 5th respondent bore a grudge and registered three cases against him but, on the other hand, it is stated in the counter that 5th respondent never pressurized the petitioner not to give any evidence against him in the said case and the petitioner involved in three cases and therefore to escape the criminal and departmental liability, he made allegations against the 5th respondent. Crime No.26 of 2003 was registered against the petitioner on a report received from the 5th respondent alone. Similarly, Cr.No.2 of 2004 was registered based

on the report of 5th respondent. The other Cr.No.14 of 2004 was registered against the petitioner on the report of the 5th respondent also.

No doubt, the 5th respondent conducted enquiry based on the complaints received against the petitioner and the enquiry made by the 5th respondent only shows prima facie allegations against the petitioner and if the said enquiry conducted by the 5th respondent is proved against the petitioner, serious criminal and civil consequences will follow. However, without expressing any opinion on the merits of the said three cases, I am of the view that it may not be just and proper to investigate the said cases under the supervision of the 5th respondent as the said cases were registered based on the reports of the 5th respondent only. Therefore, it is just and proper for the 5th respondent not to supervise the said cases and they may be entrusted to any other Superintendent of Police, Railways or they may be entrusted to the C.I.D., for the purpose of fair and proper investigation against the petitioner. With regard to the missing of the valuable gold ornaments etc., already a case is registered in Cr.No.10 of 2003 for the offence punishable under Sections 406, 420, 477(a) of the Indian Penal Code.

Accordingly, the respondents 1 to 3 are directed to entrust the investigation in Cr.Nos.23/2003, 2/2004 and 14/2004 of Railway Police Station, Kurnool to the Deputy Superintendent of Police, C.I.D., Kurnool.

The Writ Petition is accordingly disposed of. No costs.

V.ESWARAIAH, J

Date: 28-03-2005.

Shr.

Asst.Registrar.

Copies to:

1. The Secretary to Government of Andhra Pradesh, Home Department, Secretariat, Hyderabad.
2. The Director General and Inspector General of Police, Government of Andhra Pradesh, Hyderabad.
3. The Additional Director General of Police, Railways, Hyderabad.
4. The Superintendent of Police, Railways, Guntakal, Anantapur District.
5. Sri K.Venugopala Rao, The Superintendent of Police, Railways, Guntakal, Anantapur District.
6. Two CCs., to the G.P., for Home.
7. Two CD., copies.
8. The Deputy Superintendent of Police, C.I.D., Kurnool